

SOUTH CAROLINA COURT OF APPEALS

No. 2019-00008

Timothy Dale Crockett,

Appellant,

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Vs.

S.A. & L.K. Properties, et., al.,

Appellees.

On Appeal From the Spartanburg
County Court of Common Pleas
--7th Judicial Circuit, Honorable
Judge Kelly, Administrative
Judge Case No. 2018-CP-42-3979

APPELLANT'S PRO SE BRIEF AND APPENDEIX

Timothy Dale Crockett

Timothy Dale Crockett
95028-071
Edgefield Corr. Inst.
P.O. Box 725
Edgefeild, SC 29824

Appellant, Pro Se

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SC Court of Appeals

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ISSUE ON REVIEW

Whether the Circuit Court of Spartanburg County Erred by denying the appellant's "motion/application to proceed in forma pauperis" related to appellant's civil action complaint for damages. Whether the Circuit Courts of South Carolina should allow in forma pauperis with partial payment of filing fees and allow the litigant to make payments towards the \$150.00 filing fee in civil cases?

STATEMENT OF THE CASE

While in jail for a federal parole violation the appellant's mother died on February 3, 2018. Appellant had been in jail since turning himself into U.S. Marshal Service at Greenville Federal Court House on December 15, 2017.

Days prior to his arrest the appellant had filed a petition in the Spartanburg County Probate Court to challenge the use of a power-of-attorney by appellant's aunt (Charlene Alexander) who was selling property of the appellant and appellant's mother who was at that time dieing of brain cancer at local hospic.

The aunt called appellant's federal parole agent and told agent that appellant was "harassing and bothering" the aunt, so federal authorities had appellant arrested.

While in Spartanburg County jail the aunt sold a peice of property in Spartanburg County using a power-of-attorney. The property was in appellant's mother's name but the appellant had lived there his entire life, had his life's possessions on the property and considered it his "home". The aunt sold the property to an assocaite of her's for a cash price egregiously

below fair market value. The aunt and appellant's "sister" (Julia Alsirt) gave-away, sold, and or stoled and disposed of everything that appellant had on property--they destroyed the appellant's entire life belongings and legecy.

In order to have his "day in court" the appellant notified law enforcement who advised that it was a "civil matter", so the appellant drafted a civil lawsuit and attempted to file it in the Spartanburg County Common Pleas Court. The appellant mailed the clerk of court a cover letter dated 11/6/18 which explained the contents of parcel to clerk: (1) Complaint; (2) Application for IFP; (3) Summons; (4) Civil Cover sheet. See Appendix D.

On 1/7/19 the clerk of court ("MF") returned the papers saying Judge Kelly denied IFP. See Appendix E.

On 1/10/19 the appellant mailed a "notice of appeal" to the Common Pleas Court with another motion IFP for appeal fees which teh Clerk's office rejected. Appellant filed a "notice of appeal" with this Court and then had to correct deficiencies thereafter.

The appellant has mailed numerous letters to the Clerk of Court for the Court of Appeals asking for Rules of the Court in order to file a proper and timely brief in this appeal. The Appellant has gotten no response to his letters and this brief is now submitted without benifit of any Rules.

ARGUMENTS

"[T]he ability to seek regularized resolution of conflict is fundamental^{al} to an organized and cohesive society." Boddie v. Conn., 401 US 371, 377 (1971). Congress enacted in forma pauperis laws "to ensure that indigent litigants have meaningful access to the federal courts." Neitzke v. Williams, 490 US 319, 324 (1989).

Privileges and immunities clause of the United States Constitution requires states to accord to citizens of other states same rights of access to its courts as it accords to its own citizens. McKnett v. St. Louis & SFR Co., 292 US 230 (1934). "Choices about marriage, family life and upbringing of children among associational rights the Court has ranked as basis and important in our society" and access to the courts is a right regarding such fundamental aspects of life. "Life, Liberty and Property" are specifically mentioned by the Founding Fathers of this County. Cooper v. Circuit Court of Faulkner Co., 430 SW 3d 1 (2013).

States must provide indigent litigants with meaningful access to the Courts. Adkins v. E.I. du Pont de Nemours & Co., 335 US 331, 335 (1948); MLB v. SLJ, 519 US 102 (1996). The United States Constitution guarantee indigent prisoners access to the Courts. Bounds v. Smith, 430 US 817 (1977).

The S.C. State Constitution and S.C. laws should guarantee a persons right to access the courts to get redress for torts and/or wrongs committed by other citizens of the state-- especially when the state's criminal enforcement will not

provide remedial process.

The Circuit Court judge should not summarily deny a prisoners' application for in forma pauperis without considering the merits of petition/lawsuit being pursued or the action litigated. Moreover, Circuit Court should have rules policies that allow poor litigants to pay a partial filing fee up front and make payments to the Court as the money is available. It is fundamental unAmerican to arbitrarily deny anyone the right to access the Court simply because they can't afford it.


The defendants in the complaint destroyed the appellant's life; they stole his property; violated S.C. laws when they transferred property with a bogus power-of-attorney; and committed multiple torts against the appellant. The Courts of the State of South Carolina should allow the greived party in such cases to seek his "day in court" and do so even if he does not have the finacial resorces to pay the filing fees.

The Courts need to establish some sort of partial payment scheme that allows indigent litigants to pay the filing fees but do so in partial payments-- like the federal courts do.

CONCLUSION

WHEREFORE, this Court is requested to remand this Case back to the Circuit Court with instructions that the Judge allow appellant's IFP and grant such or allow appellant to pay a part of \$150.00 fee and make payments until it is payed in full measure.

Respectfully prayed for this 26thday March 2019.


Timothy dave Crockett
Appellant, Pro Se

CERTIFICATE OF SERVICE

I, Timothy Dale Crockett hereby state under penalty of perjury that I have this day served and mailed this brief by depositing such with prison mail services with 1st class postage affixed and addressed as follows:

⇒95028-071⇐

Common Pleas Court
7th Judicial Circuit
180 Magnolia Street
Office of Clerk of Court
Spartanburg, SC 29304
United States

⇒95028-071⇐

Charlene M Alexander
Jane E. Copeland Estate
561 OLD Furnace RD
Personal Representative
Boiling SPGS, SC.29316
United States

SA & LK Properties, LLC
575 Wicklow Road
Campobello, SC 29322

Done this 26^m day of March , 2019.


Timothy Dale Crockett

⇒95028-071⇐

Timothy D Crockett
Fed. Reg. #95028-071
Edgfield Federal Correction Institution
P.O. Box #725
Edgefield, SC 29824
United States

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APPENDIX

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

TIMOTHY DALE CROCKETT,)
Appellant/Plaintiff,)
vs.)
SA & LK PROPERTIES, et. al.,)
Appellees/Defendants.)

On Appeal From the
Spartanburg County Court of
Common Pleas Hon. Keith
Kelly, Judge
Case #2018-CP-42-03979

NOTICE OF APPEAL

2019 JAN 24 PM 1:46
SOUTH CAROLINA COURT
SPARTANBURG COUNTY

PLEASE TAKE NOTICE that the Plaintiff/Appellant, Timothy Dale
Crockett, hereby appeals to the South Carolina Court of Appeals
the Common Pleas Court order denying Plaintiff's "Motion and
Affidavit to Proceed In Forma Pauperis" on December 18, 2018
by Honorable Judge R. Keith Kelly. Such Order attached herewith.

Plaintiff argues that he has a U.S. Constitutional and State
Constitutional Right to access the courts and cannot do so while
incarcerated without funds to pay filing fees.

Plaintiff has simultaneously filed with this Notice of
Appeal a renewed "Motion and Affidavit to Proceed in Forma
Pauperis" on appeal because Plaintiff does not have funds to
pay court costs for notice of appeal.

Respectfully done this 27th day of December, 2018.

Timothy Dale Crockett
Timothy Dale Crockett
Appellant/Plaintiff, Pro Se

Timothy D Crockett
Fed. Reg. #95028-071
Edgfield Federal Correction Institution
P.O. Box #725
Edgefield, SC 29824
United States

Appendix "A"

STATE OF SOUTH CAROLINA,)
COUNTY OF SPARTANBURG)
TIMOTHY DALE CROCKETT,)
VS. Plaintiff)
SA & LK PROPERTIES, LLC;)
ESTATE OF JANE COPELAND:)
JULIA ALSIRT: and CHARLENE)
ALEXANDER,)
Defendant.)

IN THE COURT OF COMMON PLEAS
7TH JUDICIAL CIRCUIT

MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS

FILE NO. 2018 CP 42 03979

I, TIMOTHY DALE CROCKETT being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me
this 21 day of November 2018
Notary Public
My Commission expires 10-01-2023

Timothy Dale Crockett
Signature of Plaintiff or
Person Filing Complaint on Behalf of
Plaintiff
Timothy Dale Crockett

WESLEY A. GLENN
Notary Public, South Carolina
My Commission Expires
October 01, 2023

ORDER

- Leave is granted to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is denied to proceed in forma pauperis.

See Martin v. State, 321 S.C. 535 (1995)

Dated: 18 December, 2018
Spartanburg, South Carolina

R. Keith Kelly
JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

APPENDIX "C"

2018 DEC 18 PM 1:58
M. HOPE BLACKLEY
CLERK OF COURT
SPARTANBURG COUNTY

Date: November 6, 2018

Timothy Dale Crockett #95028-071
Edgefield Federal Corr. Inst.
P.O. Box 724
Edgefield, SC 29824

Clerk of Court
Sptbg. Co. Common Pleas
180 Magnolia Street
Spartanburg, SC 29304

Re: Crockett v. SA & LK, Properties, LLC.

Dear Honorable Clerk of Court:

Please find for filing and consideration by the Judge my pro se "Complaint" along with "Application for In Forma Pauperis", "Summons" and "Civil Cover Sheet". (Originals)

Please return a "clock-filed/recv'd" copy of my papers. This case was submitted previously but my documents were "lost" some where between Administrative Judge Fraley's Chambers and Judge Kelly's chambers. After months of letters and searching I ultimately had to redo the papers for filing again.

Thank you very much for your time and concern in this matter

Respectfully,

Timothy Dale Crockett
Timothy Dale Crockett
Plaintiff, Pro Se

Enclosures ✓

cc: Retained (files) ✓

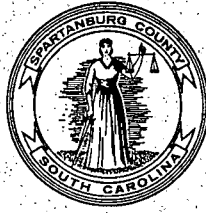
RECEIVED
CLERK OF COURT
SPARTANBURG COUNTY
NOV 15 PM 2:13
M. HOPE BLACKLEY

APPENDIX "D"

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2259



Clerk of Court

Gail Moffitt
Assistant Clerk of Court

1/7/2019

Timothy Dale Crockett #95028-071
Edgefield FCI
PO Box #725
Edgefield SC 29824

Dear Mr. Crockett,

Your filing was sent to Judge Kelly for review and was denied.

Please let us know if we can be of further assistance to you.

Sincerely,

MF

APPENDIX "E"

March 26, 2019

State of South Carolina
Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Appeal No. 2019-000008

Dear Honorable Clerk:

Please find for filing and review by the Justices my prose "Brief" in the above appeal.

I have mailed (3) letters to your office asking for some rules and/or instructions about filing a brief. I did not receive any response, so must do the best I can without the Rules. Like I stated, I am in FEDERAL prison without any SC State law books.

Thank you for your time & concern in this matter.

Timothy Dale Crockett

Timothy Dale Crockett

⇒95028-071⇒

Timothy D Crockett
Fed. Reg. #95028-071
Edgefield Federal Correction Institution
P.O. Box #725
Edgefield, SC 29824
United States

enclosures

cc: Retained